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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,030	01/14/2004	Jui-Tien Chen	3827.06 (ALJ)	6159

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EXAMINER

SPISICH, GEORGE D

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/758,030	Applicant(s) CHEN, JUI-TIEN	
	Examiner George D. Spisich	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/24/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, there is claimed the anchored member includes an axial shaft and left and right pins. It does not appear that the axial shaft has left and right pins. Therefore it is unclear to use the singular term "member" being claimed to include two separate and distinct elements.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Schepis (USPN 5,074,372).

Schepis discloses a mount frame for a electric motor driven wheeled vehicle having a first frame unit (14) including first front and rear frame portions opposite to each other in a first longitudinal direction and a second frame unit (16) including second front and rear frame portion opposite to each other in a second longitudinal direction.

The first rear frame portion has an anchoring member (60) which has a bearing wall (the inside surface of 60) that faces in a first upright direction transverse to the first longitudinal direction and a gripped member (structure near numerals 86 and 82) that faces in the first longitudinal direction.

The second front frame portion having a seat post member (106) which is elongated in a second upright direction transverse to the second longitudinal direction and an anchored member (54,56) which extends in an axial direction transverse to the second longitudinal and upright directions and which is disposed to be journalled on the bearing wall of the anchoring member (60) about a rotational axis in the axial direction, such that the second rear frame portion is rotatable relative to the first frame unit about the rotational axis between a first position, where the second upright direction is coincident with the first longitudinal direction and a second position, where the second longitudinal direction and upright direction are coincident with the first longitudinal and upright directions, respectively, the second front frame portion further having a gripping member (elements 72) that has a gripping wall (a surface of 72 that contacts the first rear frame portion) that "is to be brought to" confront the gripped wall of the gripped member (86,82) in the first longitudinal direction when the second rear frame portion is turned from the first position to the second position.

The mount frame further includes a tightening unit (94,88) disposed to push the gripping wall to abut tightly against the gripped wall when the second rear frame portion is in the second position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schepis (USPN 5,074,372) in view of Bates (USPN 3,278,229)

Schepis has been discussed in the prior rejection. Although Schepis shows a seat post integrally formed on the second front frame portion and extending in the second upright direction, however, the detail to the seat post with pin adjustability is not shown.

Bates discloses a well known seat post arrangement which is vertically adjustable. The seat post member includes a seat tube (22) and a seat stem (26) which is adapted to be connected to a seat and which is insertable into the seat tube along a post axis in the second upright direction, and a locking unit (75,77) disposed to releasably lock the seat stem relative to the seat tube.

It would have been obvious to modify the seat post of Schepis to provide an interfitting and lockable vertically adjustable seat post arrangement as taught by Bates as this is a well know arrangement to provide a vertically adjustable seat to accommodate users of the seat/vehicle that are of different heights.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schepis in view of Bates as applied to claim 5 above, and further in view of Mercat et al. (USPN 5,865,560).

Schepis in view of Bates have been discussed in a prior rejection. Although Bates discloses through holes and a screw nut (77) and a screw bolt (75) having a threaded end portion that threadedly engages the screw nut, Bates does not disclose a locking unit pivoting actuating lever that pushes an abutting member against the seat that either tighten or loosen the locking unit.

With respect to the through holes being reversed in the arrangement of Bates. IT would have been obvious to one of ordinary skill in the art at the time the invention was made to reverse the holes on the seat tube and seat stem, since it has been held that a mere reversal of essential parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Mercat et al. discloses a lock pin including a shank (2) and a threaded end that also accepts a screw nut. This arrangement is inserted through holes and tightened (and alternately loosed) to fix members together. Mercat et al. discloses a pivoting actuator that pushes an abutting member (15) sleeved on the shank to apply added

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pressure such that the connected members are more rigidly connected. Furthermore, the addition of an lever adds a mechanical advantage such that it requires less effort to apply a higher amount of force to connect the members.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the locking arrangement as disclosed by Mercat et al. in the arrangement of Schepis in view of Bates so as to provided a positive locking unit that adds a mechanical advantage so it requires less effort to apply adequate force to connect the seat stem and seat tube.

Allowable Subject Matter

Claims 2-4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Peterson (USPN 5,101,920), Fought (USPN 5,154,251), Fan (USPN 6,439,331), Blount et al. (USPN 5,036,938), Cheng (USPN 6,336,517), Bussinger (USPN 6,273,206), Wu (USPN 6,170,592), Lo (USPN 6,896,084), Lin (USPN

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6,530,446), Flowers (USPN 4,909,525), Guyton (USPN 4,148,524), Herzog (USPN 5,522,642), Levit et al. (USPN 3,327,085), JP11-9627.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (571) 272-6676. The examiner can normally be reached on Monday-Friday 9:00 to 6:30 except alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George D. Spisich
September 23, 2005


PAUL N. DICKSON 9/28/05
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600